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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,361	10/01/2001	Kurt Silber	037 / 50187	3901

7590 11/04/2003

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EXAMINER

SHRIVER II, JAMES A

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/966,361

Applicant(s)

SILBER ET AL.

Examiner

J. Allen Shriver

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5,6,10,11,15-19,21-24 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5,6,10,11,15-19,21-24 and 26-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's submittal of an amendment was received on June 13, 2003 wherein claims 2-4, 7-9, 12-14, 20 and 25 were cancelled, claims 1, 5, 11, 15-16, 19, 21, 24 and 26 were amended, and new claims 29-30 were added.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. **Claims 1, 5-6, 10-11, 15-19, 21-24 and 26-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** Specifically, in claims 1, 19 and 24, the phrase "wherein at least one of said elongated openings is curved with end areas directed upwards" is vague and indefinite. Applicant does not indicate what end area is being directed upwards and does indicate how it is being directed upward in relation to the other components of the device.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

Art Unit: 3618

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 5-6, 10, 17 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent et al. (US Patent 6,513,579 B1) in view of Raasch et al. (US Patent 6,024,333). Kent et al. discloses a fastening arrangement for a module (10) for the fastening of the module on a vehicle body, wherein fastening points of the module are constructed as a plurality of elongated openings (54,64) extending in the same direction. Kent et al. does not specifically disclose wherein the elongated openings are constructed at least partially as a curved path; wherein end areas of the curved path are directed upwards into a mounting position of the module against gravitational force; wherein the curved paths are constructed such that a movement of the module is achieved during the mounting operation; and wherein, on at least one of the elongated openings, at least one flank of the elongated opening is constructed as an insertion aid. Raasch et al. discloses a fastening arrangement wherein the elongated openings are constructed at least partially as a curved path (54) and wherein the end areas of the curved path are directed upwards into a mounting position of the module against gravitational force (See Figs. 1-2); and wherein the curved paths are constructed such that a movement of the module is achieved during the mounting operation and at least one flank of the elongated opening is constructed as an insertion aid (52). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide the bracket having elongated openings with curved paths directed upwards disclosed in Raasch et al. for the mounting bracket disclosed in Kent et al. The motivation for doing so would have been to allow the brackets to be easily mounted into place and held against gravity until the bracket and module can be securely fastened.

Art Unit: 3618

Regarding claims 17 and 29-30, Kent et al. inherently discloses the method of fastening a vehicle radiator module to a vehicle using the fastening arrangement of claims 1, 5 and 6.

6. **Claims 11 and 15-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent et al. (US Patent 6,513,579 B1) and Raasch et al. (US Patent 6,024,333) in view of Wurfel (US Patent 5,915,490).** Kent et al. and Raasch et al. disclose a module as set forth above, but does not disclose air guiding elements which are held in a modular frame, wherein an opening is provided on one of the air guiding openings, which rests on a corresponding opening of a vehicle body when in the mounted position, with a plane of the openings being arranged essentially perpendicularly with respect to a mounting plane of the module. Wurfel discloses an air guiding element (15) held on the module frame, wherein an opening is provided on one of the air guiding elements, which rests on a corresponding opening (16) of a vehicle body when in the mounted position (See Fig. 6), with a plane of the openings being arranged essentially perpendicularly with respect to a mounting plane of the module. At the time of the invention, it would have been obvious to combine Kent et al. and Wurfel to provide an air guiding element for the radiator module disclosed in Kent et al. The motivation for doing so would have been to provide a supply of cooling air to be guided over the radiator to cool the engine of the vehicle.

7. **Claims 19, 22-24 and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wurfel (US Patent 5,915,490) in view of Kent et al. (US Patent 6,513,579 B1) and Raasch et al. (US Patent 6,024,333).** Wurfel discloses a vehicle assembly comprising a vehicle body (See Fig. 2) having a plurality of protruding fastening lugs (40), and a module (10) including a module frame (25) with a plurality of fastening openings engagable over the

B9
11/3/03

Art Unit: 3618

fastening lugs (See Fig. 2). Wurfel does not disclose wherein said fastening openings are elongated openings extending parallel to one another to facilitate placement of said module with said module frame fastening openings surrounding the respective fastening lugs, and adjusting sliding movement with the module transverse to the fastening lugs to an installation position while supported at the fastening lugs; and wherein at least one of said elongated openings is curved with end areas directed upwards so as to secure the module frame and module against gravity when in a pre-assembled position and during transverse sliding of the module frame to an installation position. Kent et al. and Raasch et al. disclose wherein said fastening openings (54,64) are elongated openings extending parallel to one another to facilitate placement of said module with said module frame fastening openings surrounding the respective fastening lugs, and adjusting sliding movement with the module transverse to the fastening lugs to an installation position while supported at the fastening lugs; and wherein at least one of said elongated openings is curved with end areas directed upwards so as to secure the module frame and module against gravity when in a pre-assembled position and during transverse sliding of the module frame to an installation position. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to substitute the elongated fastening openings disclosed in the combination of Kent et al. and Raasch et al. for the fastening openings disclosed in Wurfel. The motivation for doing so would have been to allow for adjustment of the position of the module during installation of the module, so as to accommodate for slightly varying fastening lugs.

Regarding claims 22-23 and 27~~26~~, Wurfel discloses wherein said module includes a radiator (11) and air guiding elements (15) held on the module frame.

Art Unit: 3618

8. ²⁶ Claims ²¹21 and ²⁸28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wurfel (US Patent 5,915,490), Kent et al. (US Patent 6,513,579 B1) and Raasch et al. (US Patent 6,024,333) as applied to claims 19 and 24 above, and further in view of Hanafusa (US Patent 5,429,182). Wurfel, Kent et al. and Raasch et al. disclose a vehicle assembly as set forth above, but do not disclose wherein at least one of the elongated curved openings is open laterally to accommodate insertion of the module frame laterally over a corresponding fastening lug. Hanafusa discloses wherein at least one of the elongated curved openings is open laterally to accommodate insertion of the module frame laterally over a corresponding fastening lug (See Fig. 1). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide one of the elongated openings disclosed in Kent et al. with a lateral opening in view of the teaching of Hanafusa. The motivation for doing so would have been to allow the elongated opening to be slide easier into position around the fastening lug in order to speed up assembly.

Response to Arguments

9. Applicant's arguments with respect to claims 1, 5-6, 10-11, 15-19, 21-24 and 26-30 have been considered but are moot in view of the new ground(s) of rejection. Examiner is not sure what Applicant means by the phrase "wherein at least one of said elongated openings is curved with end areas directed upwards." Applicant does not indicate what the end areas being directed upwards are being directed upwards in relation to the other components. Broadly construed, the end areas of the elongate openings disclosed in Kent et al. are directed upwards.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Johnson can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

J. Allen Shriver
Examiner
Art Unit 3618

Application/Control Number: 09/966,361

Page 8

Art Unit: 3618

873

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SPECIAL AGENT
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11/3/03